

REMARKS

Claims 1-12 were pending and under considerations. In the Office Action dated on February 25, 2004, claims 1-12 were rejected. In this Amendment, claims 1 and 6 are amended, and claims 3 and 8 are cancelled. Accordingly, claims 1-2, 4-7, and 9-12 remain at issue.

I. 35 U.S.C. § 102 Anticipation Rejection of Claims

Claims 1-12 were rejected under 35 U.S.C. § 102(e) as being anticipated by Kawakami et al (U.S. Patent No. 6,432,585). Applicants respectfully traverse this rejection.

Claim 1 is directed to a negative electrode active material comprising a composition A-B-C wherein the composition A-B-C contains 5 to 48% by weight of the second element B and 1 to 50% by weight of the third element C. Claim 6 is directed to a nonaqueous electrolyte battery comprising a positive and a negative electrode containing electrode active material comprising a composition A-B-C wherein the composition A-B-C contains 5 to 48% by weight of the second element B and 1 to 50% by weight of the third element C. Applicants respectfully submit that Kawakami et al. does not teach that the second element B (at least one selected from silicon and tin) is 5 to 48% by weight of the A-B-C composition. Kawakami et al. only discloses that "tin alloys are desired to contain Silicon preferably in an amount in the range of 50% to less than 100% or more preferably in an amount in the range of 70% to less than 100%" (col. 16, lines 7-10).

Claims 2, and 4-5 all depend directly from claim 1 and are therefore allowable for at least the same reason that claim 1 is allowable. Claims 7, and 9-12 all depend directly from claim 6 and are therefore allowable for at least the same reason that claim 6 is allowable.

Applicants reserve the right to prove an invention date prior to the effective filing date of Kawakami et al.

Conclusion

In view of the above amendments and remarks, Applicants submit that all claims are clearly allowable over the cited prior art, and respectfully request early and favorable notification to that effect.

Respectfully submitted,

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By: 

David R. Metzger
Registration No. 32,919
SONNENSCHN NATH & ROSENTHAL LLP
P.O. Box 061080
Wacker Drive Station, Sears Tower
Chicago, Illinois 60606-1080
(312) 876-8000